



## GREENWOOD COMMON COUNCIL MAY 17, 2004 MINUTES

President Jessie Reed called the meeting to order at 7:00 p.m.

Ron Deer led the audience in the Pledge of Allegiance, after which the Rev. Dane Sinn of the Smith Valley Baptist Church led in prayer.

<b>PRESENT:</b>	Council members Bruce Armstrong, Ron Bates, Bill Bless, Ron Deer, John Gibson, Keith Hardin, Jessie Reed; Clerk-Treasurer Jeannine Myers; and City Attorney Shawna Koons-Davis. Mayor Charles Henderson could not be present.
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Mr. Gibson moved to accept the minutes of the regular meeting on May 5<sup>th</sup>, with second by Mr. Bates. Mr. Hardin made a correction on the last page, where a question he had asked about a ditch in Meridian Meadows is attributed to Mr. Armstrong. Vote: Ayes (Abstain – Bless). Amended minutes were approved.

Mr. Armstrong invited Bill Reeves of Reeves Buick / Pontiac to make a presentation on his business. He purchased the business in 1981. They are on approximately 8½ acres and average 78 employees a year, the vast majority Johnson County residents. Mr. Reeves indicated that gross sales last year were over \$43.5 million and they sell 1,700 to 1,800 vehicles a year. Gross payroll is \$4.5 to \$5 million per year. Total inventory averages around \$5.5 million.

Jerry Sargent of the Economic Development Commission told the Council that they will continue to sponsor these presentations if the Council so desires. Mr. Hardin has some businesses to add to the list that want to appear.

Ms. Koons-Davis had distributed her litigation report. There were no questions from the Council.

Mr. Armstrong reported that a big issue at the last Plan Commission meeting was a presentation on annexation and rezoning on Combs Road. They could not get an official vote. Another issue that will be coming is the Windhorst property.

Mr. Deer mentioned that the tax abatement committee will meet at 7:00 p.m. on Wednesday, May 19<sup>th</sup> in the first floor conference room.

For the Solid Waste Management Board, Mr. Gibson indicated that the County has collected over \$45,000 in old tires, batteries, and other items. They are considering having multiple collection sites, instead of only at the fairgrounds.

The Meet & Confer committee will be setting up a meeting in the near future.

Mr. Hardin, on the ad hoc committee study of the space issue, reminded the Council that no decisions had been made and they had given no assignments to the committee. At the next Council meeting, he suggested that either the committee be dissolved or investigate one or both of the options presented to the Council.

Ms. Reed told the Council that the Parks Board had requested to be on the agenda for the June 21<sup>st</sup> meeting to update us on the aquatic park and the trails.

**ORDINANCE No. 04-12** – An Ordinance Annexing Certain Territory Contiguous to the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana (Approximately 94 acres of land along both the west and east sides of S.R. 135, north of Olive

Branch Road – commonly known as the DSA, LLC, Alyea Wilderness Development, Inc., Ace Securities Inc., and Forest Lawn Memory Gardens, Inc. Properties). **POSTPONED UNTIL JUNE 7, 2004 MEETING FOR PUBLIC HEARING AND FIRST READING.**

**ORDINANCE No. 04-14** – An Ordinance Amending Greenwood Municipal Code (1993), As Amended, Section 2-95 and Common Council Ordinance No. 88-7, As Amended, Section 1, to Establish Petty Cash Funds For the Greenwood City Court – Adult Probation Department and the Legal Department. Mr. Deer moved to pass Ordinance No. 04-14 through first reading. Second by Mr. Bless. Vote: Ayes. **PASSED FIRST READING.**

**ORDINANCE No. 04-15** – An Ordinance Providing For an Additional Appropriation From the Cumulative Capital Development Fund (\$1,503,447) to the Board of Public Works and Safety for Reconstruction and Repair of Portions of Meadowview Lane, Main Street, Smith Valley Road, and Smith Valley Road By-Pass in the City of Greenwood. Mr. Bates moved to pass Ordinance No. 04-15 on first reading. Second by Mr. Gibson. Ms. Reed opened the public hearing for input. Director of Operations Norm Gabehart told the Council that these were recommendations from the Street Superintendent Greg Owens, based on his opinion of the integrity of the streets. They discussed the priorities. The project is expected to be milling and overlaying. They are trying to get the bids awarded as quickly as possible to coordinate with Valle Vista. Bids must be advertised 10 days before the bid opening. In response to Mr. Deer, counsel said she would hope for response from the Department of Local Government Finance within 15 days after adoption. Mr. Gabehart told the Council there was no immediate grant application for matching funds. This led to discussion about drainage problems in Cherryfield and Imperial Hills that need to be addressed before milling and overlay. For the streets addressed in this ordinance, the costs are estimated at \$142,000 for Meadowview, \$459,000 for Smith Valley from U.S. 31 S.R. 135, \$537,000 for Smith Valley from Main to U.S. 31 and \$365,000 for Main Street. There was more discussion on the balances in the Cum Cap funds and the distributions received during the year. The public hearing was closed. Vote: Ayes. **PASSED FIRST READING.**

**ORDINANCE No. 04-16** – An Ordinance to Amend Ordinance No. 89-11, An Ordinance Granting a Cable Television Franchise Agreement to Construct and Operate a Cable Television System in the City of Greenwood, to Renew and Extend the Cable Television Franchise Agreement with Insight Communication Midwest, LLC. Counsel discussed an amendment requested at the last meeting to allow Insight to transfer ownership to a subsidiary company without having to give prior notice. Mr. Bates moved to amend Ordinance No. 04-16 as described. Second by Mr. Hardin. In response to Mr. Deer, the City Attorney agreed that we would not know if a subsidiary is a company in good standing. In response to Mr. Deer, Tom Flora of Insight said their intent was to avoid having to come before the Council to transfer to an entity within Insight LLC; a sale or a trade to another company would of course require that they come before the Council. Alex Crowley of Insight indicated that Insight “does not have that many entities”. The company has grown very quickly, he added, and for legal and accounting purposes the entities are kept separate. Mr. Flora told the Council that FCC rules would require that Insight provide a minimum of 30 days notification for any changes in operation. Vote: Ayes. **AMENDED.** Ms. Reed opened the public hearing. As no one spoke, the public hearing was closed. Mr. Bates moved to pass Ordinance No. 04-16 as amended. Second by Mr. Gibson. Vote: Ayes. **PASSED FIRST READING AS AMENDED.**

**ORDINANCE No. 04-17** – An Ordinance Transferring Supervision and Control of City Property From the Board of Public Works and Safety to the Common Council Pursuant to I.C. 36-4-6-18 and I.C. 36-9-6-2, and Repealing All Ordinances Inconsistent Herewith. Mr. Hardin moved to pass Ordinance No. 04-17 through first reading. Second by Mr. Armstrong. In response to Mr. Deer, Mr. Hardin asserted that as elected officials, the Council needs to take responsibility for leases and control of real property as part of the financial responsibility. From the audience, Warren Beville, member of the Board of Public Works and Safety, noted that there has been a Board of Works for 44 years and for roughly 8½ years the present Board has done those duties. Mr. Beville told the Council that the Board feels they have satisfactorily and successfully handled those duties. He, as Mr. Deer had, asked why we need to change and what could be accomplished by that. Mr. Hardin replied that this has nothing to do with the Board’s performance. He said that Indiana Code does designate responsibility for real property to the Board of Works and reiterated that he feels the Council, as elected officials, need to be responsible for City property, including signing the leases. Mr. Deer cited Indiana Code 36-4-4-2 et seq. which discusses separation of powers. He said that this Council, the majority having served over 17 years, has consistently voted to recognize the difference between the executive and administrative branches. Mr. Deer pointed out that it has always been clear to him that the Council is the legislative arm with the responsibility to issue ordinances, change the law where they feel it is necessary, and approve the budgets. He described this suggestion

as one that is entirely administrative in nature, and has not found one third-class City “that has gone backwards doing that”. Mr. Deer moved to allow Ms. Koons-Davis to give her opinion on this ordinance and waive confidentiality. Second by Mr. Bless. Vote: Ayes – Bless, Deer; Nays – Gibson, Hardin, Reed, Armstrong, Bates. Motion denied. Mr. Bates moved to table Ordinance No. 04-17 for further study. Second by Mr. Gibson. Vote: Ayes. – Reed, Armstrong, Bates, Bless, Deer; Nays – Hardin, Gibson. Mr. Armstrong requested that the City Attorney advise the Council of her opinion before the next meeting. She will issue a formal memo to each member of the Council. **TABLED.**

**RESOLUTION No. 04-15** – A Resolution of the Greenwood Common Council Regarding the Issuance of Warrants (Approval of the Payment of Claims). Mr. Hardin moved to pass Resolution No. 04-15 through first reading. Second by Mr. Bates. Mr. Hardin asserted that under Indiana Code, this is a Council responsibility, and feels that it is only appropriate that elected officials preside over that, not appointed officials. Mr. Deer disagreed with that opinion. He asserted that the budget is the way to control finance and that approving claims is approving form and format. If you disagree with the purchase and/or price, Mr. Deer stated that you could not deny the claim. Ms. Reed insisted that reviewing the claims would be a tremendous help in the budget process. Mr. Deer replied that the Council could understand the process with what the Clerk-Treasurer can provide with the new software she is proposing and the Council could have that information without it being a statutory, administrative responsibility. He reiterated that he feels a legislative body should not be performing administrative functions. Mr. Deer said he would not be a part of challenging purchases and added that the Council could put political pressure on the Mayor if we think someone is mispending. Board of Works member Kevin Hoover told the Council that Mr. Beville has the primary responsibility of reviewing the claims but both he and the Mayor also review those claims. He gave his opinion that this is an administrative function. His concern, Mr. Hoover stated, is that other issues will be in the pipeline and that this is a political issue. Mr. Beville explained that he looks at every claim and told the Council that claims have been held until someone comes in to justify the claim. Mr. Hoover suggested that Council members who are still interested in reviewing the claims continue to do that and let the Board of Works continue with its administrative responsibility. Mr. Hardin expressed his concern to be able to follow each department's expenditures. Mr. Deer said those reports would be available from the Clerk-Treasurer with the new software that she will have in her budget request. After prolonged discussion Mr. Deer moved to ask for counsel's opinion. Second by Mr. Bless. Vote: Ayes – Reed, Bless, Deer, Gibson; Nays – Armstrong, Bates, Hardin. Mr. Deer then moved to postpone Resolution 04-15 until the June 21<sup>st</sup> meeting. Second by Mr. Gibson. Ayes – Armstrong, Bless, Deer, Gibson, Reed; Nays – Bates, Hardin. **POSTPONED TO JUNE 21, 2004 MEETING.** Ms. Koons-Davis will include her opinion on this resolution in her memo.

**ORDINANCE No. 04-18** – An Ordinance Transferring Funds Within the Budget of the Post Conviction Services Department (Probation and Drug Court) (\$75,000). Mr. Bates moved to pass Ordinance No. 04-18 on first reading. Second by Mr. Gibson. The City Attorney recounted that the Judge told the Council at introduction that the Court had money they were not spending and wanted to use this to help purchase the video conferencing system. Ms. Koons-Davis read the Ordinance at this time. After discussion about the video conferencing system the vote was as follows: Ayes. **PASSED FIRST READING.**

**ORDINANCE No. 04-09** – An Ordinance Annexing Certain Territory Contiguous to the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, Approximately .68 Acres Located at the Southwest Corner of S.R. 135 and Smith Valley Road, and Commonly Known as the Schoolcraft Development, Inc. Property. **POSTPONED UNTIL JUNE 7, 2004 MEETING.**

**ORDINANCE No. 04-19** – An Ordinance to Amend the Official Zoning Map Adopted by Reference in Zoning Ordinance No. 82-1 Entitled “An Ordinance Establishing Comprehensive Zoning Regulations For the City of Greenwood, Indiana, and Providing for the Administration, Enforcement, and Amendment Thereof, In Accordance with the Provisions of I.C. 36-7-4-600 et seq. Laws of Indiana, As Amended, and For the Repeal of All Ordinances in Conflict Herewith” (Proposed Rezoning of Approximately 47.516 acres of land located east of I-65 and north of East Main Street, commonly known as the Sarah Mae Windhorst Revocable Trust Property). Attorney Mike Cook represented the petitioner. He pointed out the location of the property, which is one of three tracts of the Windhorst farm. The subject property is the middle tract and is in the overlay zone, noted Mr. Cook. They are asking for a change in zoning from C-1 to I-1 as the petitioner controls about 265 acres between I-65 and Graham Road and Main Street and County Line. When this property is added to that which is already zoned I-1, it is proposed to be developed into an industrial park. Mr. Cook indicated that they believe they have met the statutory requirements and the petition is consistent with the comprehensive plan. This parcel is part of the

annexation request to be introduced tonight and will be combined with 46.5 acres to the north. Mr. Armstrong reported that the Plan Commission approved this unanimously (8-0). **INTRODUCED.**

**ORDINANCE No. 04-20** – An Ordinance Annexing Certain Territory Within the Area of Extended Jurisdiction of the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, Approximately 110.118 Acres Located East of I-65 and North of East Main Street (commonly known as the Sarah Mae Windhorst Revocable Trust Property). Mr. Cook told the Council that this property is the three remaining portions of the Windhorst farm and described each. This was also a unanimous vote by the Plan Commission. **INTRODUCED.** At counsel's recommendation to comply with statutory requirements, Mr. Bates moved to postpone first reading and public hearing until July 19<sup>th</sup>. Second by Mr. Hardin. Vote: Ayes. **POSTPONED UNTIL JULY 19, 2004 MEETING FOR FIRST READING AND PUBLIC HEARING.**

**RESOLUTION No. 04-16** – A Resolution of the Greenwood Common Council to Adopt the Written Fiscal Plan for the Annexation of Approximately 110.26 Acres Located East of Interstate 65 and North on East Main Street, Referencing Annexation Ordinance No. 04-20. **INTRODUCED.**

Under miscellaneous business, Mr. Hardin mentioned a letter from Mark Pugh of X-tol, LLC. This pertains to the discussion at the beginning of the year about putting a hold on \$26,000 in the IT budget and a possible audit for that department. Mr. Hardin had asked several consultants for proposals for doing an audit; he has received one. There was mention that Mr. Pugh had not had enough time to complete the audit, and this is the current offer for doing the assessment. Mr. Hardin moved to use some of the funds on hold to do the audit to hire Extol, LLC at a price not to exceed \$9,500. Second by Mr. Bates. Ms. Koons-Davis agreed that this amount would probably have to be transferred to the Council budget. Mr. Deer wondered why the IT Department is the focus of this audit. Mr. Hardin mentioned his concern about \$26,000 allotted for upgrading computers when that upgrade took place in 2003 at a cost of \$29,000. There are other concerns as well, he said – such as the purchase of the recorder and the amount of personnel in that department as compared to the number of users on the network, he added. Mr. Deer still asked about other issues that that sum of money could be used for – such as redesign of the City Building or design of a new one, analyzing management structure, salaries, etc. He wondered if there was a higher priority. After discussion, the roll call showed Ayes: Hardin, Reed, Armstrong, Bates; Nays – Deer, Gibson, Bless. Motion carried. Counsel will prepare an ordinance to transfer funds for introduction at the next meeting.

Mr. Hardin asked for an update on the appraisals for the Gilmour property. The City Attorney reported that she has hired the two appraisers that had done this the last time, so that perhaps it could be updated without too much extra expense. They were hoping to have the appraisals done by the end of this week.

Mr. Hardin now discussed a letter sent by Mark Hershman concerning his opposition to the Wal-Mart issue.

Mr. Armstrong asked Chief Hessman about the status of the radar trailer. It was shipped back to Kansas where it was built to be repaired, answered the Chief. The information sign had shorted out and started smoking. There is an upgrade that can be added to it to help in traffic studies that would eliminate the field measuring, so the Chief directed them to do the upgrade. They are waiting on the trailer to be shipped back.

Mr. Armstrong recounted his request for a traffic study in Central Park and also said he was given a request by former Councilman Colvin for a four-way stop at Sheek Road and entrance to Shiloh Run and Valle Vista. Chief Hessman would like to use the trailer when it is returned since it is safer.

The Clerk-Treasurer noted that she had put financial reports in the Council folders.

Ms. Koons-Davis discussed invoices from Bingham McHale and H.J. Umbaugh for professional services on the bond issue. The total is \$40,418.35, which was anticipated to come out of bond proceeds. Since the issue failed, we will need an additional appropriation to the Board of Works 331 category, she stated.

Linda Gibson reported that Flags for Greenwood raised the amount needed for matching funds from the Johnson County Community Foundation.

The Mayor sent word that the committee for downtown development is checking on the sign at the old 76 station and the Wakeup sign. He also reminded the Council to pick up their budget material. Mr. Deer recalled that in the past three departments were to appear per meeting, to discuss particularly major changes. If more is needed, he thought a special meeting would be needed, and this decision would come after the material is reviewed. Mr. Deer also asked for a time table for when the budget has to be passed.

Mr. Gabehart reported that the pile of chips from limb pickup, in the long-term won't be accessible to the public. Initial plans included the purchase of a tub grinder. They are working with a vendor to purchase the mulch at a reduced rate in lieu of hauling the leaves to another site. Limbs and leaves can still be taken to the drop site. This led to discussion of the roadway by Timber's Edge, which is private property, said Mr. Gabehart. Mr. Deer also asked about Honey Creek, some of which is County and some the City's. The City has been trying to patch our sections. There was also further discussion on the Valle Vista project coordinating with the work on Meadowview, Smith Valley, Smith Valley By-Pass and Main Street. Mr. Gabehart reiterated that they wanted to get the best bid package possible and they hope to be awarding bids in June. Mr. Deer recalled asking about the speed limit signs on Meridian at the last meeting especially as most of the grading is done. Mr. Deer suggested temporary signs to help with the speeding.

With no further business, the meeting adjourned at 9:00 p.m.